

WASHINGTON STATE DEPARTMENT OF HEALTH OCCUPATIONAL THERAPY PRACTICE BOARD PUBLIC MEETING MINUTES / RULES HEARING

October 21, 2005
9:00 AM

Red Lion Hotel Yakima Center, 607 E Yakima Ave, Yakima, WA 98901.

On October 21, 2005, the Occupational Therapy Practice Board met at the Red Lion Hotel Yakima Center, 607 E Yakima Ave, Yakima, WA 98901. In accordance with the Open Public Meetings Act, notices were sent to individuals requesting notification of meetings.

MEMBERS PRESENT

MARK LEHNER, OT, CHAIR
D. JILL PETRIE, COTA, VICE CHAIR
JOHN BORAH, PUBLIC MEMBER
WENDY HOLMES, OT
CATHERINE WHITING

STAFF PRESENT

KRIS WAIDELY, PROGRAM MANAGER
JENNIFER BRESSI, PROGRAM MANAGER
JOSHUA SHIPE, DISCIPLINARY MANAGER
DORI JAFFE, AAG ADVISOR
PETER HARRIS, STAFF ATTORNEY

GUESTS

KAREN JENSEN, SUPERVISING STAFF ATTORNEY
CAROL KUSS
SUSAN BROWNRIGG

Friday October 21, 2005 – 9:00 AM – OPEN SESSION

1. CALL TO ORDER

- 1.1 Approval of Agenda – Agenda was approved with changes to the order of agenda items, Items 6, 7, 8 will move to items 2, 3, 4.
- 1.2 Approval of Meeting Minutes from April 1, 2005 – Minutes were approved with the correction of grammar on page 3.
- 1.3 Approval of Meeting Minutes from July 6, 2005 – Minutes were approved as presented.

- 2. **SANCTIONS DISCUSSION** – Karen Ann Jensen, Department of Health, Supervising Staff Attorney, discussed new sanction guidelines with the Board.

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Ms. Jensen indicated that she has been working on a department project in which they have been reviewing the complete disciplinary process. The current department disciplinary guidelines give too much discretion to the disciplining authority. Ms. Jensen is currently visiting as many Boards and Commissions as she can to share the model with them. The model consists of 6 categories, then 3 tiers, some common categories would be; drug diversion, sexual misconduct, etc. then tiers of different severity levels of misconduct in those categories. The workgroup is currently trying to determine appropriate/reasonable sanction ranges. We have to consider that all professions are different and we cannot create a system that is exactly the same for each disciplining authority. The ultimate goal is to create consistency across the professions by providing a tool for the disciplining authorities to use. Ms. Jensen will follow up with the Board when more progress is ready to report. There could be workshops to customize the tool for each individual Board or Commission and training sessions on how to use the tool.

3. **COURT OF APPEALS DECISION** – Karen Ann Jensen, Department of Health, Supervising Staff Attorney, discussed the implications of a Court of Appeals decision made on August 8, 2005.

Ms. Jensen gave a brief overview of the original case that led to this latest ruling by the Washington State Court of Appeals. The Court has ruled that full authority Boards and Commission must authorize investigations, they cannot delegate that authority.

4. **ETHICS DISCUSSION** – Karen Jensen, Department of Health, Supervising Staff Attorney, discussed Ethics with the Board.

Ms. Jensen provided a copy of a presentation that would have been presented at the Boards/Commission/Committee Conference. Unfortunately, that conference was cancelled. There are state executive ethics laws and board members are considered state officers. Board member should be aware of use of resources and of state time as well as appearances are very important while a board member. This could be an item for a possible Board workshop.

5. **NATIONAL BOARD FOR CERTIFICATION IN OCCUPATIONAL THERAPY (NBCOT) ANNUAL MEETING** – Mark Lehner, Chair, provided the Board with an update regarding the National Board for Certification in Occupational Therapy (NBCOT) Annual Meeting he attended October 15, 2005, in Arlington, Virginia.

Foreign educated applicants were a main topic at the conference. NBCOT is one of only five organizations that provides visa screens for Home Land Security. There were many employment recruiters in attendance. Employment recruiters wanted states to consider different laws or procedures to allow foreign educated applicants licensure. They were informed that state regulatory authorities are here to protect the public not to promote or provide employment to professionals.

The Test of English as a Foreign Language (TOEFL) will be changing to an internet test and they have added a speaking portion to the test (IBT).

NBCOT will be surveying every three years to keep the national exam at an appropriate level.

State of Missouri used NBCOT continuing education (CE) requirements as a framework for their CE. The Board also used NBCOT CE as framework for Washington State's CE requirements.

NBCOT had 42,416 renewals for 2005, 86.5% of OT's renewed.

6. **LEADERSHIP CONFERENCE** – Mark Lehner, Chair, and Jill Petrie, Vice-Chair, shared information with the Board regarding the Leadership Conference they attended at the Department of Health on September 12, 2005.

Ms. Petrie indicated that the Governor presented and her focus was healthcare. Media training was provided by the Department of Health media office. They were helpful in identifying when there is a media issue and when you may speak as an individual vs. a board member.

7. **RE-ENTRY PLAN CHECKLIST** – The Board approved the re-entry plan checklist for use of initial review of a re-entry plan.
8. **RULES HEARING PROCESS** – The Board discussed the process and procedures for a rules hearing. Ms. Waidely provided a script, pre-written language, for Mr. Lehner to follow during the rules hearing. There are specific items, WAC numbers, quick language explanations that must be presented during a rules hearing. The rules hearing will be recorded by audio tape.
9. **DEFINITIONS RULE** – The Board will respond to questions regarding the definitions rule, WAC 264-847-010. Mr. Harris identified some minor grammar errors and Ms. Waidely will correct. Ms. Waidely will locate all definitions within WAC 246-847 and try to incorporate into the one WAC 246-847-010. A letter will be sent to stakeholders asking for input regarding the definition of consulting. American Occupational Therapy Association (AOTA) may have a specific definition for consulting. The board will review again at the next scheduled meeting.
10. **CORRESPONDENCE** – The Board reviewed and discussed recent correspondence received by program. Ms. Waidely will send a letter indicating that the Board is re-evaluating WAC 246-847-010 and refer to what is in the current rule.

11. **SET MEETING DATES** – The Board scheduled meeting dates for the 2006 calendar year. They are as follows and are subject to change:
January 13, 2006 - Kent
March 31, 2006 – Bellingham
June 23, 2006 – Spokane
August 18, 2006 – conference call
October 2006 – Vancouver (in coordination with WOTA)
12. **STUDENT LECTURES** – The Board discussed providing student lectures to colleges and universities with approved occupational therapy and occupational therapy assistant programs.

The Board was unable to attend the University of Washington class this year due to schedule challenges. The Board would like program staff to be proactive earlier in the year to schedule the class presentations so schedules will be easier to accommodate. Green River Community College is scheduled for November 29, 2005 and Jill Petrie, OTA will be presenting. Program staff has not received requests from Eastern Washington University in the last couple of years. Program staff will contact all approved schools in Washington in August of 2006.

13. **PROGRAM REPORT** – Information provided to the Board by the Program Manager.
- Legislative Update – The Department of Health is going forward with one bill that will require a national background check for all health practitioners applying for licensure.
 - Budget Update – 2005-2007 budget is not finalized.
 - Organizational changes – no new changes at this time.
 - Other - Mr. Lehner, OT Board Chair, will be presenting this afternoon at the WOTA luncheon. He will let practitioners know that the Board is holding a rules hearing this afternoon. He will emphasize that the continuing education rule will include occupational therapy assistants.

11:40 a.m. Break for Lunch – The board members attended the WOTA business meeting/luncheon. Mark Lehner, OT, Chair, presented to WOTA members. He provided an overview of the rules hearing being held at 2:30 that afternoon and advertised the upcoming expiring board member appointments. He encouraged OT's and OTA's to apply with the Governor's office.

RULES HEARING – 2:30 p.m.

The Occupational Therapy Practice Board held a rules hearing to propose the adoption of the following WACs: WAC 246-847-210 Sexual Misconduct, WAC 246-847-190 AIDS Education and Training, WAC 246-847-170 Code of Ethics, and 246-847-065 Continuing Competency. The Board did not receive any opposition to

the proposed rules. After the hearing the Board discussed and approved the proposed WAC's for adoption.

3:00 p.m. - CLOSED SESSION

Josh Shipe, Disciplinary Manager, spoke to the Board regarding the new procedures for reviewing complaints. He explained that he would need a panel of three reviewing board members to be available for conference calls to review new complaints. The Board agreed that due to the Board's low number of cases that conference calls would be on an as needed basis.

14. REVIEW OF APPLICATIONS

KM Re-entry completed plan – Approved
ME Re-entry completed plan – Approved
Applicant A – Approved

15. DISCIPLINARY CASE REVIEWS

Case 2005-02-0001OT – open additional new case

16. CONTINUING EDUCATION AUDITS

The board reviewed continuing education audits for compliance.

17. ADJOURNMENT – The Board adjourned at 5:10 p.m. with no further business.

Respectfully submitted:

Approved:

Jennifer Bressi
Program Support Manager

Mark Lehner, OT, Chair
Occupational Therapy Practice Board